YONG KIM SENG

v.

M. ABDUL AZEED

HIGH COURT MALAYA, IPOH
AJAIB SINGH J
[ORIGINATING MOTION NO. 41 OF 1981]
18 FEBRUARY 1982

ADMINISTRATIVE LAW: *Certiorari - Application for leave to apply for an order of - Order by Rent Tribunal and Appeal Board - Rental of premises - Repossession of premises for development purpose.*

This was an application for leave to apply for an order of *certiorari* for the purpose of quashing the order made by the Rent Appeal Board.

The Rent Tribunal on an application, ordered the tenant to give vacant possession of the premises in question to the landlord and to receive a sum of RM2,880 as compensation. The tenant appealed to the Appeal Board against the order. But the Board affirmed the order. As a final resort the tenant sought this relief by way of *certiorari* proceedings on the grounds that the Rent Appeal Board:

(a) lacked jurisdiction
(b) was wrong in law.

Held:

[1] The Rent Tribunal and the Appeal Board had not acted in any way in excess or want of jurisdiction nor has there been any error of law.

[2] There is no evidence at all that these two bodies had acted against the principles of natural justice.

[3] The applicant had failed to put up a *prima facie* case and accordingly the *certiorari* proceeding in dismissed with costs.

Legislation referred to:
Control of Rent Act 1966, ss. 15, 18
Control of Rent (Perak) (Rent Tribunal) Rules 1967, rr. 8(b), (d), (e), (g)

For the applicant - S.A. Lingam
For the respondent - R.C.M. Rayan

JUDGMENT

Ajaib Singh J:

This was an application for leave to apply for an order of *certiorari*
"to remove into this Court for the purpose of it being quashed forthwith the order made by the Rent Appeal Board for the District of Batang Padang dated the 5 September 1981 in Rent Tribunal Appeal No. 4 of 1980..."

The applicant is the tenant of premises No. 16 Main Road, Tanjong Malim on a monthly rental of RM60. On 9 August 1980 the respondent/landlord applied to the Rent Tribunal for possession of the premises for the purpose of development under s. 18 of the Control of Rent Act, 1966. On 8 October 1980 the Rent Tribunal ordered the applicant to give vacant possession of the premises to the landlord on or before 8 October 1981. The tribunal also

ordered the landlord to pay to the tenant a sum of RM2,880 as compensation. The tenant then lodged an appeal on 10 October 1980 to the Appeal Board under s. 15 of the Control of Rent Act and after hearing the appeal the Appeal Board dismissed it on 5 September 1981 and affirmed the order of the Rent Tribunal. This order of the Appeal Board was not extracted and is not included in the documents in the present proceedings. No comment on this omission was made during the hearing before me nor is there any allegation that the order of the Appeal Board was in any way irregular apart of course from the allegations made against the Appeal Board in support of the present application.

There being no further right of appeal against the Appeal Board the tenant sought relief by way of *certiorari* proceedings. The grounds set out by the tenant were as follows:

(1) The said Rent Appeal Board lacked jurisdiction in that it failed to consider that the respondent's application was not supported by evidence that funds were available at the time of the application for the purpose of putting into effect the development of the said premises;

(2) The said Rent Appeal Board was wrong in law in failing to comply with Rule 8 of the Control of Rent (Perak) (Rent Tribunal) Rules, 1967 particularly rr. 8(b), (d), (e) and (g) thereof;

(3) That the said Rent Appeal Board was wrong in law in failing to consider that the said Rent Tribunal was wrong in law in arriving at their decision merely on statements made by the counsel for the respondent and the applicant without any evidence being given by the applicant the respondent and or other witnesses.

After having perused the record in these proceedings and having heard the submissions advances by counsel for the parties I found no merit whatsoever in the application for leave to apply for an order of *certiorari.* There was no substance in the allegation that the Appeal Board had failed to comply with the provisions of the control of Rent (Perk) (Rent Tribunal) Rules, 1967. The parties were represented by counsel both before the Rent Tribunal and the Appeal Board and it cannot be said that the applicant has been prejudiced in any way acted in excess or want of jurisdiction nor has there been any error of law which could amount to an excess or want of jurisdiction. And there certainly is no evidence at all that the Rent Tribunal and the Appeal Board had acted against the principles of natural justice. In all the circumstances of this case therefore I held that the applicant had failed to put a *prima facie* case for the issue of the order sought for by way of *certiorari* proceedings and I accordingly dismissed it with costs.

Also found at [1982] CLJ 154